

1 that you produced, you retained the copies of those
2 checks as well as you might have retained the stubs of
3 those checks. What I'm asking is sometimes there are
4 checks and sometimes there aren't. What does it mean
5 if the checks are present?
6 A If the checks were present and stapled to the stubs,
7 they were voided out.
8 Q Okay. So even if they don't say "void," it just means
9 that they were voided out?
10 A Well, obviously you can't use a check if it was stapled
11 to the -- if Check No. 2116 was stapled right here in
12 the register, which many were, that check wasn't used.
13 Q Okay. I had to ask because I got the copies of the
14 records. Somebody from our Kalamazoo office came down.
15 A Okay.
16 Q So I just wanted to make sure I was understanding.
17 A Okay.
18 Q So thanks for your patience on it.
19 A Okay.
20 Q Well, I'll say thank you in advance for being patient
21 while I surf through these. There were a lot of these
22 check registers, and I wanted to make sure I -- So
23 then throughout Exhibit 5 there are check stubs that
24 say "Pay to the order FAFBO Harbins-Stern Brothers."
25 Do you see that there are multiple of these throughout

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1 the exhibit?
2 A May, June, July. Yes.
3 Q Okay. And so all of those are stubs, and because the
4 checks weren't there, that means the checks went out;
5 is that correct?
6 A I can only say that because the check is there -- not
7 there, it was not stapled to the stub, which I don't
8 have in front of me, I'm assuming they went out.
9 Q Okay. And you believe that was for profit-sharing for
10 employees?
11 A I believe it was.
12 Q And we don't remember what "FAFBO" meant?
13 A I don't.
14 Q Okay. That's all I have on that exhibit.
15 A Okay.
16 Q You testified earlier that you did write checks to
17 yourself personally sometimes?
18 A Occasionally.
19 Q And you said that those were for payroll?
20 A Correct.
21 Q How much was your income from Harbin's or Harbins-Stern
22 Brothers? You were just paid once; is that correct?
23 A No. We were paid every two weeks.
24 Q I guess I meant you weren't paid from both Harbins-
25 Stern Brothers and Harbin's?

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1 A No.
2 Q One income?
3 A Correct.
4 Q And how much was that income?
5 MR. SMITH: During what time period are you
6 talking about?
7 THE WITNESS: Yeah. I don't --
8 BY MS. LACHMAN:
9 Q In a year, what was your annual salary?
10 A When?
11 Q How about in 2000?
12 A I don't know. 98,000 maybe.
13 Q Okay. And in 2001?
14 A I'd have to pull my tax records. I don't recall.
15 Q But you think that your annual income was somewhere
16 around 98,000?
17 A No. That number just comes to my head. I think that
18 was one of the years, but I don't know which one. And
19 then it started going down dramatically.
20 Q Okay. So in 2003, approximately what would your salary
21 be annually?
22 A Forty thousand maybe, 45,000.
23 Q Okay.
24 (At 11:42 a.m., Exhibit 6 marked.)
25 BY MS. LACHMAN:

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1 Q I'd like to submit this as Exhibit 6. This is another
2 packet of the stubs that you provided. On page 1 of
3 Exhibit 6 you have a pay stub to M. Harbin. Is that
4 assumably you?
5 A That's not a pay stub.
6 Q Or a check stub.
7 A Check stub.
8 Q A check stub to M. Harbin. Is that assumably you?
9 A That's correct.
10 Q And in the amount of \$9,500?
11 A That's correct.
12 Q On page 2 of Exhibit 6 --
13 A For the record, though, let's go back to --
14 Q Okay.
15 A -- Stub 9520. It says "certified check S.P."
16 Q Um-hmm.
17 A "S.P. Richards" was one of our vendors.
18 Q Okay. And so the check was made out to you?
19 A I would take the check to the bank and get a certified
20 check because there was no charge to me, and then we
21 would have to get certified funds to S.P. Richards.
22 Q Did they require certified funds?
23 A Yes.
24 Q And so they always required a certified check?
25 A They did for a period of time.

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1 Q And why wouldn't the -- couldn't the check have just
2 been written for a cashier's -- for a certified check?
3 Did it have to be written to you personally?
4 A If we took a Harbin's check and took it to the bank
5 and, say, debit the account, there was like a \$10
6 charge for that check. With my checking account at
7 AmSouth, I got free certified checks.
8 So I would take the Harbin's check, put it in
9 my account, write out the check right there and hand it
10 to the teller and say, "I need certified funds all
11 payable to S.P. Richards." And so this is what all
12 these are going to be for.
13 Q Okay. So, to avoid the \$10 service charge --
14 A Right.
15 Q -- you would have checks written to your personal
16 account from Harbin's or Harbins-Stern Brothers,
17 whichever, and then you --
18 A Um-hmm. Harbin's.
19 Q You said Harbin's. How did you know it was from
20 Harbin's versus Harbins-Stern Brothers?
21 A Because I think I said earlier Harbins-Stern Brothers
22 closed in 2000, 2001.
23 Q Oh, so you're looking at the date.
24 A I'm looking at the date.
25 Q Okay. And so, to go back, to avoid the \$10 fee you

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1 would write a check from your Harbin's, Incorporated,
2 account to your personal account, and then you would
3 write a cashier's check?
4 A I would write a check off my personal account and hand
5 it to the bank and say I would need a certified
6 cashier's check, and they did it. And they did it for
7 a period of a couple weeks.
8 And then finally -- and I called S.P.
9 Richards. I said, "Either you're going to lose our
10 business or, you know, it'll go to United Stationers,
11 because I'm going to quit running to the damn bank
12 every day." And that's what I was doing.
13 And they were making the checks -- they were
14 trying to average them out on our daily purchases.
15 That's why they're all like 4,300, 4,200 and 4,200.
16 And so they were -- 4,300, 4,200. They tried to make
17 it an average on a daily basis, and then finally I got
18 tired of going to the bank and said, "Either take our
19 check, we would hand it to the driver the next morning,
20 or, you know, we won't have your wholesale business."
21 And so they stopped.
22 Q Okay. Do you have any records to show that those
23 certified checks were actually drawn from your account?
24 MR. SMITH: Does he have any records?
25 BY MS. LACHMAN:

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1 Q You wrote checks from your personal account, certified
2 checks to S&P Richards, is what you're saying?
3 A No. I didn't write a certified check. I would take a
4 check from Harbin's, --
5 Q Um-hmm.
6 A -- take it to my bank, --
7 Q Um-hmm.
8 A -- and then I would deposit it in my bank account. And
9 then at the same time I would write a check out for
10 9,500 to AmSouth Bank, and I would say, "Please make
11 this payable to S.P. Richards." They in turn would
12 make a certified check --
13 Q Right.
14 A -- payable to S.P. Richards.
15 Q Right.
16 A So the same time I credited my account 9,500, they
17 debited my account 9,500, handed me a check payable to
18 S.P. Richards, and saved me the \$10 service charge, or
19 15 or whatever it was to get a certified check from
20 Colonial or whoever we were banking with.
21 Q So you didn't keep any records of that?
22 A I don't have any records of that, no. The little pink
23 copies and stuff that they gave me every day? We
24 probably kept them for a while. If you'll look through
25 those check registers, they may be stuck down in there.

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1 But, no, I didn't keep them personally. I didn't --
2 the transaction was done.
3 Q Okay. And so that was the page 1 with the 9500's.
4 A Certified check to S.P.
5 Q Right.
6 A Okay.
7 Q And if we go to page 2, Check Stub No. 9523 --
8 A Certified check, S.P.
9 Q Um-hmm. In the amount of --
10 A Eighty-four hundred.
11 Q Okay. And then right below it, it's to Michael Harbin
12 --
13 A Um-hmm.
14 Q -- but it doesn't say "S.P. certified check."
15 A It was S.P. certified check.
16 Q And you know that because?
17 A Because I did it.
18 Q But you don't have any record of it?
19 A There will be a corresponding debit on my personal
20 account where 4,200 went in and 4,200 went out payable
21 to AmSouth Bank, and then they would probably denote on
22 that check, the official check that went to S.P.
23 Richards. So to go back and follow the trail, you
24 would have to probably get that number off the check
25 that the bank cashed from me to write the certified

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1 check.
 2 Q Okay. So you personally were operating as sort of the
 3 middleman in the financial end between Harbin's,
 4 Incorporated, and S.P. Richards?
 5 A All I was doing was saving Harbin's, Incorporated, \$10
 6 a day for a certified check.
 7 Q Right. And you were doing that by having the money go
 8 through your personal account and --
 9 A Correct.
 10 Q -- onward to S.P. Richards? Okay. So then I think we
 11 just spoke about 9524. 9525, that's the same thing?
 12 A 9525?
 13 Q Um-hmm.
 14 A That's correct.
 15 Q Okay. That's in the amount of 4,200.
 16 A Correct.
 17 Q On the next page, that's page 3 of Exhibit 6, 9527.
 18 That's to M. Harbin for 4,200 with no note of S.P.
 19 Richards.
 20 A Correct.
 21 Q And that's your same explanation as before?
 22 A Yes.
 23 Q Just got to get it all on the record.
 24 A I understand.
 25 THE WITNESS: Can we stop for one second?

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1 I'd like to go to the restroom.
 2 MR. SMITH: Sure.
 3 (From 11:49 a.m. to 11:52 a.m., deposition in
 4 recess.)
 5 BY MS. LACHMAN:
 6 Q Okay. So I think we were in the middle of Exhibit 6 on
 7 page 4, and this is Check Stub 9530 and that's from
 8 September 11, 2003 in the amount of 4,200, and that's
 9 again to Michael Harbin. And so that was money from
 10 Harbin's to your personal account; correct?
 11 A Correct.
 12 Q Okay. And you say that it goes on to S.P. Richards?
 13 A Correct. The company would write me a check, I would
 14 take the check, deposit it into my account, and then
 15 immediately write a check out of my account payable to
 16 the bank, and they would issue me a certified check
 17 payable to S.P. Richards.
 18 Q Okay. And then page 5, one on September 12, 2003 to
 19 Michael Harbin in the amount of 4,200. That's Check
 20 Stub 9533.
 21 A It says "S.P." underneath that.
 22 Q Okay. So that is again to your personal account and
 23 then on to S.P. Richards?
 24 A Correct.
 25 Q Next one, 9534, September 18, 2003 to Michael Harbin,

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1 \$4,200, and that's the same thing?
 2 A (witness nods)
 3 MR. SMITH: Answer verbally.
 4 THE WITNESS: Yes.
 5 BY MS. LACHMAN:
 6 Q Okay. And the next page which is page 6 of Exhibit 6,
 7 at the top 9541, and that is September 16, 2003 for
 8 \$5,200 to Michael Harbin.
 9 A Correct.
 10 Q And it says "certified/S.P."
 11 A Correct.
 12 Q Okay. And again that's the same explanation?
 13 A Yes.
 14 Q Okay. And so what I saw just in that, my numbers
 15 roughly added up to, I think, \$52,000 approximately
 16 over about a 14-day period that entered your personal
 17 account?
 18 A (witness nods)
 19 Q And you're saying that then it left your personal
 20 account -- oh, can you give verbal responses, please?
 21 A Yes.
 22 Q So just to make sure we have it on the record, that's
 23 approximately \$52,000 from Harbin's into your personal
 24 account over a 14-day period?
 25 A I haven't added it up, but if that's what you say, I'll

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1 trust what your calculations are.
 2 Q And you say that that money then went on to another
 3 vendor?
 4 A That money went payable to S.P. Richards.
 5 Q Okay. But you don't -- you personally don't have any
 6 records of that?
 7 A No.
 8 MS. LACHMAN: Just one moment. Okay. Then
 9 here, I don't know Karen if you'd like these submitted
 10 as a packet or individually. I take it it doesn't
 11 matter which way we do it. Which is easiest for you?
 12 REPORTER: Makes no difference to me.
 13 MS. LACHMAN: I think there are about four
 14 pages. How about we just do it as a packet?
 15 Is that easiest for you?
 16 MR. SMITH: Any way you want to do it is fine
 17 with me.
 18 MS. LACHMAN: Well, I'll just do it as a
 19 packet, then. But I'll hand them to you first and then
 20 we'll staple them, if that's okay. Okay. So that's
 21 going to be page 1. Here's going to be page 2.
 22 MR. SMITH: Do you need a stapler?
 23 REPORTER: Got one.
 24 MS. LACHMAN: She's got one right here.
 25 Totally prepared. That's going to be page 3.

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